



U.S. Department of Justice

Environment and Natural Resources Division

Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611

Telephone (202) 616-6552
Facsimile (202) 616-6584

DJ#90-11-2-1109

September 25, 1997

VIA TELEFACSIMILE & U.S. MAIL FIRST CLASS

US EPA RECORDS CENTER REGION 5



468945

Mark M. Davis, Esquire
Varnum, Riddering, Schmidt & Howlett, L.L.P.
Bridgewater Place
P.O. Box 352
Grand Rapids, Michigan 49501-0352

Re: Albion-Sheridan Township Landfill Superfund Site
Albion, Michigan

Dear Mr. Davis:

I write as a further follow-up to my letters to you of July 25, 1997 and August 18, 1997 regarding the above-referenced matter. Since the date of the most recent letter, the City of Albion, MI (the "City") requested, and we have participated in, a telephone conference on September 9, 1997, and subsequent dates, to discuss prospects for resolution of the United States' claims against the City. On September 12, 1997, you indicated that, within one to one and one-half weeks, the City would provide a letter indicating: (a) whether the City will propose an offer of settlement of the United States' claims in this matter, and, (b) whether the City will make an ability-to-pay claim regarding any such offer of settlement. Moreover, you indicated that if the City raised an ability-to-pay claim you would provide documentation supporting such a claim for the government's review.

In the meantime, on September 19, 1997 you indicated that the City had received a proposal from Decker Manufacturing Corp.

("Decker") that four potentially responsible parties ("PRPs") - Decker, the City, Cooper Industries, Inc., and Corning Glass, Inc. - combine efforts, possibly utilizing alternative dispute resolution ("ADR"), to consider making a proposal for settlement of the United States' past cost claims.

We appreciate the City's careful and considerate efforts to advance our discussions toward settlement of the government's claims. However, as I indicated to you on September 19, 1997, we are concerned about the great deal of time taken to date and about the prospects for further delays.

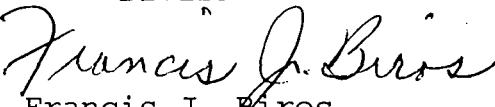
While we support any effort to proffer to the United States a settlement proposal in this matter, I indicated to you on September 19, 1997 that in order to delay filing of the United States' complaint against the City, we would need evidence of tangible progress in our settlement negotiations.

If we do not make significant progress by October 1, 1997, it is the U.S. Department of Justice's present intention to proceed to file a complaint against the City. Of course, filing a complaint does not mean that efforts cannot continue to resolve the government's claims through settlement. We believe this is a reasonable timeframe given that almost sixty days have elapsed since my original letter to the City regarding this matter was sent on July 25, 1997.

Once again, thank you for your attention to this important matter. If there are any questions, please do not hesitate to call.

Sincerely,

Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources
Division

By: 
Francis J. Biros
Trial Attorney

cc: Lewis J. Steinbrecher
City Manager
City of Albion, Michigan

Kurt Lindland, Esquire
Assistant Regional Counsel, U.S. EPA - Region V

Doug Dixon, Esquire
Attorney Advisor, U.S. EPA - OSRE, OECA



U.S. Department of Justice

Environment and Natural Resources Division

DJ#90-11-2-1109

Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611

Telephone (202) 616-6552
Facsimile (202) 616-6584

September 25, 1997

VIA TELEFACSIMILE & U.S. MAIL FIRST CLASS

Philip M. Moilanen, Esquire
Bullen, Moilanen, Klaasen & Swan, P.C.
420 South Brown Street
Jackson, Michigan 49203-1485

Re: Albion-Sheridan Township Landfill Superfund Site
Albion, Michigan

Dear Mr. Moilanen:

I write as a further follow-up to my letters to you of July 25, 1997 and August 18, 1997 regarding the above-referenced matter. Since the date of the most recent letter, we have participated in telephone conferences on August 25, 1997, September 5, 1997 and September 18, 1997, among other dates, to discuss prospects for resolution of the United States' claims against Decker Manufacturing Corp. ("Decker"). During this period, the U.S. Environmental Protection Agency ("EPA") has provided Decker with cost and work performed documents relating to the United States' past costs claims in connection with the Albion-Sheridan Township Landfill Superfund Site (the "Site"), as well as an administrative record index for the Site which lists documents considered or relied upon by EPA at the Site and which are available in the EPA Region 5 Superfund Records Center. On August 25, 1997 I stated that significant progress toward settlement should occur within 30 days in order for the United States to delay filing its complaint against Decker.

In our September 5, 1997 discussion you indicated that Decker may propose to three additional potentially responsible

parties ("PRPs") at the Site - the City of Albion, MI, Cooper Industries, Inc., and Corning Glass, Inc. - to undertake a concerted effort, possibly utilizing alternative dispute resolution ("ADR"), to consider making a proposal for settlement of the United States' past cost claims at the Site. I understand such a proposal subsequently was advanced by Decker to these PRPs.

We appreciate Decker's careful and considerate efforts to advance our discussions toward settlement of the government's claims. However, as I indicated to you as early as August 25, 1997, we are concerned for the great deal of time taken to advance to our current position, and the prospects that further delays in resolution of the government's claims against Decker may occur if separate discussions ensue among Decker and the three above-named PRPs.

While we support any effort to proffer to the United States a settlement proposal in this matter, I indicated to you on September 5, 1997 that in order to delay filing of the United States' complaint against Decker, we would need evidence of tangible progress in our settlement negotiations.

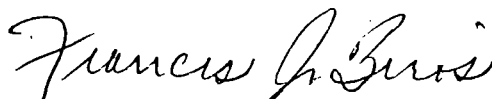
If we do not make significant progress by October 1, 1997, it is the U.S. Department of Justice's present intention to proceed to file a complaint against Decker. Of course, filing a complaint does not mean that efforts cannot continue to resolve the government's claims through settlement. We believe this is a reasonable timeframe given that almost sixty days have elapsed since my original letter to Decker regarding this matter was sent on July 25, 1997.

Once again, thank you for your attention to this important matter. If there are any questions, please do not hesitate to call.

Sincerely,

Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources
Division

By:



Francis J. Biros
Trial Attorney
Environmental Enforcement Section

cc: Via U.S. Mail:

Bernard Konkle, President
Decker Manufacturing Corporation
703 North Clark Street
Albion, Michigan 49224

Kurt Lindland, Esquire
Assistant Regional Counsel, U.S. EPA - Region V